

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

MARCOS T. HERNANDEZ

v.

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL SECURITY

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CIVIL ACTION NO. G-04-227

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge entered on September 6, 2006, to which Plaintiff has not filed his objections.

Having given this matter *de novo* review under 28 U.S.C. § 636(b)(1)(C), this Court finds that the Magistrate Judge's Report and Recommendation should be, and it is hereby, **ACCEPTED** in its entirety and incorporated by reference herein. Accordingly, Defendant's Motion for Summary Judgment (Instrument No. 13) is **GRANTED**; Plaintiff's Motion for Summary Judgment (Instrument No. 10) is **DENIED**; and the above-styled action is **DISMISSED** for lack of jurisdiction because Plaintiff has not exhausted his administrative remedies.

DONE at Galveston, Texas this 27th day of September, 2006.



Samuel B. Kent
United States District Judge